



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



October 20, 2005

James E. Hartl AICP
Director of Planning

TO: Wayne Rew, Chair
Pat Modugno, Vice Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner

FROM: Julie Moore, AICP, Head
Community Studies I Section

**SUBJECT: UPDATE ON DENSITY BONUSES
OCTOBER 26, 2005 MEETING – AGENDA ITEM #11**

Background

On June 22, 2005, the Regional Planning Commission (RPC) closed the public hearing on the proposed density bonus ordinance, which implements Section 65915 of the California Government Code, and which became effective January 1, 2005. The Commission requested that the staff consider the issues and concerns raised by the testifiers, the Community Development Commission staff, and the RPC, in the next draft of the proposed ordinance. In addition, the Commission instructed staff to consult with each of the Board offices regarding the proposed density bonus provisions. We have attached a summary of the public hearing for your information as **Attachment 1**.

On October 26, 2005, you will receive an update from the staff on our recommendations to address the major issues and concerns raised at the public hearing, as well as other updates on the proposed density bonus provisions.

Responses to Major Issues Raised at the Public Hearing

Land Development Certainty

The RPC instructed staff to consider the concerns that several testifiers raised over leaving the review for the granting incentives and concessions open-ended. Although many testifiers support the idea that incentives and concessions should not be limited, they stated that adding certainty, by providing a list of preapproved incentives and concessions, for example, could help streamline the development approvals process.
Regional Planning Commission

The staff is working on developing a “menu” of incentives and concessions that would identify reasonable modifications to a number of development standards. The menu concept is desirable because it would provide more certainty in the process while encouraging housing development projects to conform to reasonable and meaningful specified incentives and concessions. In addition, it would encourage much needed affordable housing, infill development, and affordable housing in proximity to public transportation. At your meeting on October 26th, we would like to discuss the following as potential “on-menu” incentives and concessions:

- Yard/setback reduction
- Building height increase
- An additional story within allowable building height
- Lot size reduction
- Lot width reduction
- Parking reduction for 100% affordable residential projects near transit
- Increased density bonus for 100% affordable residential projects

At this stage, these “on-menu” incentives and concessions are conceptual, and will require the formulation of additional details to ensure proper implementation and administration.

Appeals Procedure

At the public hearing, the staff had recommended a modified appeals procedure, which would allow adjacent property owners, as well as the applicant, to have the right of appeal. Many testifiers criticized this recommendation, indicating that a modified appeals procedure has the potential to delay the development approvals process and, therefore, defeats the purpose of a by-right density bonus.

With the development of the “menu” of incentives and concessions, “on-menu” incentives and concessions could be subject to appeal only by the applicant—which is typical of a ministerial review procedure—and “off-menu” incentives and concessions could be subject to a modified appeals procedure in which adjacent property owners, and a town council, or similar local community association may appeal the Director’s decision (will be provided with a notice of decision), and/or the decision may be called up for review by the Regional Planning Commission. As envisioned, the Commission’s decision would be final.

An appellant, who is not the applicant, would need to provide specific grounds for an appeal, which would require the following:

- A specific statement to describe how the Director's determination or interpretation is not in accord with the purposes of Title 22 (Zoning Code)
- A specific claim that there was an error or abuse of authority, and that the director's decision is not supported by the record
- Show at least one of the following:
 - That the project does not meet the requirements of CA Govt. Code Section 65915(b).
 - That the project has not agreed to and ensured the continued affordability of units for the term specified in Govt. Code Section 65915(c)
 - That the incentive or concession approved by the director will have a specific adverse impact upon public health and safety, on the physical environment or on property listed in the California Register of Historical Resources, or that it can be demonstrated that there is a way to reasonably mitigate or avoid the adverse impact without making the project unaffordable to moderate, lower or very-low income households.
 - That the incentive or concession is not required to provide for affordable housing costs or for rents for the targeted units to be set aside.

Where discretionary applications are also submitted for the project, the appeals/call for review process that applies to the concurrent discretionary entitlements would apply and the specific findings for the Housing Permit would be required as part of that process. The modified appeals procedure for "off-menu" incentives and concessions could have a time limit of 3 ½ months in order to add certainty to the process.

TABLE 1: Modified Appeals Process for Off-Menu Projects

Time Limits	
Period during which appeal/call for review Must be received by DRP staff:	15 days from receipt of the notice of decision
Period during which the RPC must hold a duly noticed public hearing and issue a decision on the project (or the project is deemed approved)	90 days from end of appeal period

Provisions for 100% Affordable Projects to Address the Housing Crisis

Density Bonus

At the public hearing, the Commission, CDC staff and several testifiers referred to the housing crisis and the relatively low-density residential zoning in the unincorporated areas as constituting the need to go beyond conforming to the minimum density bonus requirements mandated in the State law. Several speakers noted that the County's current density bonus provisions, in Section 22.56.202 of Title 22 (Zoning Ordinance) of

the County Code, offer up to 50% density bonuses, and that this level of density bonus is needed to address the housing crisis.

At your meeting on September 28th, we discussed the General Plan Annual Progress Report, and noted that the County has much more to do to stimulate the production of affordable housing. According to the table included as **Attachment 2**, the County has achieved less than 10 percent of its regional fair-share housing goals for low- and very-low income dwelling units for the period 1998-2005.

Taking all of these points into consideration, the staff recommends that you consider an increased minimum by-right density bonus for projects that consist of 100% affordable (Very Low and Lower Income) units, as an additional on-menu incentive.

Parking Reductions

At the public hearing, testifiers also made references to studies that indicate that affordable residential projects—especially those located in proximity to public transit—do not need as much parking as market-rate housing developments. Some of the testifiers also provided parking utilization studies to the staff.

Since the public hearing, the staff has researched many policies, precedents and studies to support by-right parking reductions for affordable residential projects. A review of recent residential parking demand case studies and published literature revealed the existence of a clear relationship between income, proximity to transit and vehicle ownership. In general, the studies show that: 1) low-income households tend to own fewer vehicles and therefore demand less parking than higher income households; 2) households located near public transit tend to own fewer vehicles; and 3) vehicle ownership tends to decrease as density increases. Our basic research is summarized and included for your reference as **Attachments 3-6**.

Based on the research, the staff recommends that you consider parking reductions for 100% affordable residential projects located in **proximity to transit** as “on-menu” incentives and concessions. These reductions would be in addition to the by-right parking reductions provided in the State Density Bonus Law as shown in **Table 2**.

TABLE 2: By-Right Maximum Parking Rates in the State Density Bonus Law

Section 65915 (p) of the CA Government Code (only at the request of the applicant)	
0-1 bedrooms	1 onsite parking space
2-3 bedrooms	2 onsite parking spaces
4 or more bedrooms	2.5 parking spaces

County's Infill Sites Utilization Program

At the public hearing, the Commission and the CDC staff suggested that the proposed ordinance include provisions to accommodate and facilitate the Board-adopted County Infill Sites Utilization Program, which is administered through the CDC. The staff believes that there is considerable merit in going below the 5 unit minimum described in the State law, to facilitate the construction of affordable, infill housing, on sites controlled by the County. The Infill Sites Utilization Program, which encourages the development of affordable residential projects of 4 units or less, would need specific authorization by the County pursuant to Section 65915 (n) of the CA Government Code.

The staff recommends that you consider whether language should be added to the proposed density bonus ordinance to create greater incentives for the program as follows:

- Allow a density bonus of an additional unit for CDC-sponsored affordable residential projects, where 2-3 dwelling units are allowed under existing land use policy and zoning
- Allow density transfers for scattered sites
- Allow infill projects to qualify for by-right incentives and concessions such as:
1) Yard/setback reductions, 2) Building height increases, 3) An additional story within allowable height, 4) Lot size reductions, 5) Lot width reductions, 6) Parking reductions, 7) Allow access strip of flag lots to be included in calculating density)

These are conceptual ideas for potential incentives and would require the formulation of additional detail to ensure proper implementation and administration.

Meeting with the Board Offices

Since the close of the public hearing, the staff has met with individual planning deputies from the Board offices, and convened a duly noticed public meeting with all five planning deputies, to discuss the proposed density bonus provisions. There was a consensus among the planning deputies that the County should conform to the State-mandated requirements. However, while some deputies supported the idea of adhering to the minimum mandates in the State law, others supported a more aggressive approach to implementing the State law. For the next steps, the deputies requested to reconvene at another time and have County Counsel thoroughly analyze the State law for them.

The following major issues and concerns were raised at the meeting:

- The procedure that the staff will use to grant incentives and concessions
- The ability to grant density bonuses beyond what is offered by the State law as an incentive or concession
- The minimal approach for ministerial action
- The ability to limit parking reductions to apply only to affordable units
- The effect of the proposed density bonus provisions on CSD's
- What will be on the menu of incentives and concessions
- How the menu of incentives and concessions will work (on-menu vs. off menu)
- How the modified appeal procedure will work
- How the staff will determine financial feasibility in reviewing incentives and concessions
- The ability to limit incentives and concessions to those deemed appropriate by the County
- The need to go beyond the minimum requirements mandated by the State law (to respond to the housing crisis in Los Angeles County).

Minor Changes to the State Law with the Passage of SB 435

Since the public hearing, the California State legislature once again amended Section 65915 of the California Government Code, the State density bonus law. However the changes in SB 435, which was signed into law on October 4, 2005 and will be effective January 1, 2006, are minor and will not significantly impact our proposed ordinance. A copy of SB 435 is included for your information as **Attachment 7**. We recommend that the following changes be made to reflect the latest changes to the State law:

- Addition: Age-restricted mobilehome parks, which like senior citizen housing developments, are entitled to a capped 20% density bonus.
- Addition: Housing for moderate income households now apply to "common interest developments," which include community apartment projects and stock cooperatives in addition to condominium and planned developments
- Clarification: The basic density bonuses listed in Section 65915 (b) of the CA Government Code are not cumulative. If a project contains a mixture of incomes levels, the basic density bonus will be based on the housing set-aside for one of the income levels represented in the project.
- Clarification: Tables for calculating density bonuses replace complicated language regarding how density bonuses increase on a sliding scale

Recommendation

Due to the complexities of the key provisions of the State Density Bonus Law, we recommend that the Commission consider requesting that County Counsel prepare a legal analysis that reviews the provisions of the State law and identifies the County's options for administering the State law.

We also recommend that you instruct the planning staff to revise the draft ordinance to reflect the recommendations that respond to the issues and concerns raised at the June 22, 2005 public hearing and any additional issues that you deem appropriate on October 26, 2005.

Should you have any questions regarding the materials, please contact me or Connie Chung at (213) 974-6425 or cchung@planning.co.la.ca.us.

JTM:cc

Attachments:

1. Density Bonus Hearing Highlights, June 22, 2005
2. RHNA Construction Need and Income Distribution 1998-2005
3. Summary Comparison of Parking Rates for Affordable Housing
4. Vehicle Ownership in Los Angeles County, 2000 US Census
5. Summary of Recent Parking Demand Studies
6. Summary of Recent Published Literature on Low Income Housing and Parking Requirements
7. SB 435